

**HEARING AID DISPENSERS BUREAU**

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## What Dispensers Should Know About the Hearing Aid Dispensers Bureau's Citation & Fine Program

The Citation and Fine Program provides the Hearing Aid Dispensers Bureau with a valuable tool for enforcing the licensing law without suspending or revoking the violator's license. Regulations creating the citation and fine component of the enforcement program went into effect in 1991 and the first citation order was issued early in 1992. This fact sheet was developed to provide dispensers with a succinct description of the program and how it is managed.

### How the Citation and Fine Program Works

The regulations give the Hearing Aid Dispensers Bureau the authority to issue citations and fines and establish two categories of fines: A) from \$1100 to \$2500 and B) from \$100 to \$1000. Violations placed in Category A involve greater danger to the public than those placed in Category B which generally constitute business, advertising, and reporting violations.

When a violation is confirmed, the Hearing Aid Dispensers Bureau Administrator issues a *citation* which states the section of the law that has been violated and describes the alleged violation. An *order of abatement* is also issued to put the dispenser on notice that he or she must cease violating the law and not commit further violations. The citation and order of abatement letter for Category A violations will include a fine. Since Category B violations are less serious, the Hearing Aid Dispensers Bureau Administrator is authorized to issue the citation and order of abatement without a fine for a Category B first offense.

### Compliance

Each citation order will specify a time period in which the violator must establish compliance with the cited law. In some situations it may not be possible to complete correction within the specified time period because of circumstances beyond the control of the individual cited. In that event, the dispenser may request an extension of time in which to complete the correction. The request for an extension of time must be placed in writing within a time period established on the citation order.

### Contest of Citations

To contest a citation, the individual cited may request an informal conference with the executive officer regarding the violations charged in the citation. This informal conference request must be placed in writing within 10 days after service or receipt of the citation. Within 30 days from receipt of the request, the program administrator will hold an informal conference with the dispenser or his or her authorized representative. At the conclusion of the informal conference, the program administrator may affirm, modify, or dismiss the citation, fine, or order of abatement. The decision and the reasons behind it must be stated in writing and provided to the dispensers within 10 days of the informal conference.

This decision is considered final.

The dispenser cited may also request a formal administrative hearing to contest the citation. If the citation is dismissed after the informal conference, the request for a hearing is considered withdrawn. If the citation is modified, the citation originally issued is considered withdrawn and a new citation is issued. If a hearing is requested for this new citation, it must be requested within thirty days.

### **Category A: Fines from \$1100 to \$2500**

#### **B&P Code**

##### **Section**

##### **Summary**

- 3350 A license is required to practice hearing aid dispensing.
- 3359(a) A temporary licensee may not be the sole proprietor, manage, or independently operate a business that engages in the fitting and selling of hearing aids.
- 3364(b) If a licensee maintains more than one place of business in California, s/he must apply for and obtain a duplicate license for each branch office maintained.
- 3365.6 A hearing aid may not be sold to a person 16 years of age or younger, unless within the preceding 6 months a recommendation for a hearing aid has been made by both a board-certified, or a board-eligible, physician specializing in otolaryngology, and by an audiologist certified by the American Speech and Hearing Association. Replacement of an identical hearing aid within one year is an exception to this requirement.
- 3401(f) A hearing aid dispenser may not use the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, unless authorized by law.
- 3401(h) A hearing aid dispenser may not employ to fit or sell hearing aids any person who is unlicensed or whose license has been suspended or revoked.

#### **California**

#### **Civil Code**

##### **Section**

##### **Summary**

- 1689.6 Three day cancellation of out-of-office sales
- 1793.02 Song-Beverly Consumer Warranty Act

## Category B: Fines from \$100 to \$1000

B&P Code

<u>Section</u>	<u>Summary</u>
• 651	Fraudulent, misleading, or deceptive advertising is prohibited. Price advertising must be exact.
• 3357	This law relates to the supervised practice of temporary-trainee licensees. A trainee must hold a temporary-trainee license and must be supervised according to the specifications in the law. A temporary-trainee license may be renewed only twice.
• 3359(b)	A temporary licensee may not advertise or otherwise represent that s/he holds a license as a hearing aid dispenser.
• 3362	Before engaging in practice, a licensee must provide the committee with written notification of his or her business address.
• 3363	Each licensee must conspicuously display the license at his or her office or place of business.
• 3364(a)	Every active licensee must maintain an established retail business address that is routinely open for service to customers or clients.
• 3364(c)	A dispenser may fit and sell on a temporary basis at another licensee's office or at some other temporary facility provided that s/he notifies the committee in advance in writing of the dates and addresses for each temporary facility.
• 3365	A licensee must deliver to the purchaser a written receipt containing specified information.
• 3366	The dispenser must maintain records for a seven-year period. The records include test results, receipt copies, and physician referral documents.
• 3401(i)	Use of advertising or promotional literature which is misleading or deceptive is prohibited.
• 1399.116(a)	A dispenser may not supervise more than one trainee unless a waiver has been granted by the Hearing Aid Dispensers Bureau.
• 1399.116(b)	Under no circumstances may a dispenser supervise more than three trainees at one time.
• 1399.117	A trainee must present himself or herself to the public as a trainee.
• 1399.119	A trainee may fit and sell hearing aids only under the direct supervision of the supervising licensed hearing aid dispenser as specified in the regulations.
• 1399.142	Misrepresentation of compliance with the continuing education requirements constitutes obtaining a license by fraud or deceit.

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